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Convention on the Rights of the Child

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Committee on the Rights of the Child
Seventy-second session

Summary record (partial)* of the 2112th meeting
Held at the Palais Wilson, Geneva, on Friday, 20 May 2016, at 3 p.m.

Chair: Mr. Mezmur

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* No summary record was prepared for the rest of the meeting.

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The meeting was called to order at 3 p.m.

Consideration of reports of States parties (*continued*)

Initial report of Nepal on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (continued) (CRC/C/OPAC/NPL/1; CRC/C/OPAC/NPL/Q/1 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Nepal took places at the Committee table.*

2. **Mr. Prasad Regmi** (Nepal) said that Nepal had undergone an armed conflict which had lasted from 1996 to 2006 and which had resulted in the death of around 16,700 persons, the displacement of around 78,600 persons, the disappearance of around 1,300 persons and the devastation of its public infrastructure. On 21 November 2006, the conflict had been brought to an end with the signing of the Comprehensive Peace Agreement between the Government of Nepal and the Communist Party of Nepal (Maoist). On 9 December 2006, the Agreement on Monitoring of the Management of Arms and Armies had been concluded in the presence of the Personal Representative of the Secretary-General of the United Nations. The United Nations Mission in Nepal had confirmed that 2,973 minors had participated in the conflict as at the time of the ceasefire, of whom 1,988 were male and 985 were female.

3. Nepal had ratified the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict on 3 January 2007 and remained committed to its implementation and to the realization of the rights of all children. It had also signed the Paris Commitments to protect children from unlawful recruitment or use by armed forces or armed groups in February 2007. The country's new Constitution enshrined the rights of children as fundamental rights and prohibited the involvement of children in armed conflict. The bill amending the existing Children's Act, which would change the definition of a child so that any person under 18 years of age would fall into that category, set out the Government's obligations towards children. The strategies adopted under the National Plan of Action for the Rehabilitation and Reintegration of Children Affected by Armed Conflict centred on, inter alia, ensuring accountability and transparency in respect of children's rights and humanitarian principles; preserving the confidentiality of information about children; and fostering collaboration among stakeholders.

4. The support provided to children who had been involved in armed conflict included a monthly allowance for those children who were orphans, scholarships and the delivery of rehabilitation services under a programme carried out in cooperation with the United Nations Children's Fund (UNICEF). The Government's Central Child Welfare Board, with financial support from the European Union, had launched a special programme to assist specific groups of children affected by armed conflict, including children who had been displaced, become orphans or separated from their family, children who had been abducted, wounded, sexually exploited or left with disabilities, and children whose families struggled to meet their basic needs. Under that programme, children who had been involved in armed conflict and their families received education and training, as well as health care and income generation support. Legal assistance was also provided to children who had come into conflict with the law. A number of initiatives to promote the reintegration and deinstitutionalization of those children had also been undertaken. Data collected in the 20 districts where the programme operated pointed to the existence of at least 16,900 children who had been affected by armed conflict. The families of children who had sustained injuries or who were living with a serious disability as a result of their involvement in armed conflict were provided with compensation. The adoption of the national framework and implementation guidelines for the "Schools as Zones of Peace" initiative, which had been launched by the Government in 2011, had constituted a major step towards putting an

end to the use of schools by security forces, armed groups and political parties. To date, around 30 political parties had expressed their commitment to that goal.

5. The Government's efforts to protect children from violence, abuse, exploitation, discrimination and involvement in armed conflict were often hampered by the absence of a comprehensive community support system and an effective child protection mechanism; unfortunately, that mechanism could not be strengthened because the necessary resources were not available. Similarly, the State bodies responsible for overseeing the realization of children's rights in Nepal could not function effectively on account of a lack of technical capacity. More staff needed to be recruited and trained in order to ensure the delivery of quality services to children affected by armed conflict and to develop more sustainable, longer-term strategies for improving their situation.

6. The Truth and Reconciliation Commission created pursuant to the Commission on Investigation of Disappeared Persons, Truth and Reconciliation Act of 25 April 2014 was now operational and had begun to investigate cases involving the recruitment and use of children in armed conflict. The Ministry of Peace and Reconstruction was responsible for coordinating all efforts related to the peace process in Nepal, including the administration of post-conflict justice and reparations.

7. Although birth registration was not compulsory in Nepal, any young person who applied to join the armed forces or the police service was required to produce a citizenship certificate or a certificate from his or her school which either stated his or her date of birth or allowed it to be calculated. The application of any young person who had not reached 18 years of age was rejected out of hand. The prohibition of the recruitment of children into the army, police service or armed forces set forth in the new Constitution extended to the conscription of minors. Therefore, under Nepalese law, any person who recruited or attempted to recruit a child to participate in an armed conflict was liable to punishment and any child who was involved in armed conflict was eligible for compensation from his or her recruiter. The bill amending the existing Children's Act defined the crime of involving children in armed conflict in more detail.

8. Nepalese extradition policy was based on the principle of reciprocity, and a bilateral agreement between Nepal and the requesting State had to exist in order for an extradition to take place. The new Constitution provided that all orders or verdicts handed down by Nepalese courts, including the Supreme Court, were legally binding on all persons and State bodies, which included the Truth and Reconciliation Commission. The Commission was also competent to examine cases involving crimes against humanity. Under the Commission on Investigation of Disappeared Persons, Truth and Reconciliation Act of 25 April 2014, the Truth and Reconciliation Commission could receive complaints from children involved in armed conflict directly or from a third party on their behalf. The Commission could provide protection to witnesses and other parties if the need arose. There was also a special procedure in place whereby children could lodge a complaint through any government office in the country or by means of a dedicated hotline. The Ministry of Peace and Reconstruction was responsible for matters relating to the rehabilitation and support of children affected by armed conflict. A total of 0.42 per cent of the national budget had been allocated to the Ministry, and 45 per cent of that amount was devoted to meeting the needs of children. The curriculum in the academies run by the armed forces and the police service was the same as the one used in public schools. Those academies were open to all children in Nepal.

9. Section 23 of the bill amending the Children's Act would make child pornography a crime, as had been recommended by the Committee.

10. **Mr. Cardona Llorens** (Country Rapporteur for the Optional Protocol on the involvement of children in armed conflict) said that he wished to know what specific

penalties, if any, would be established for persons found guilty of recruiting children for use in hostilities. He wondered how the Nepalese authorities handled extradition requests involving persons suspected of such recruitment, since it was not currently a crime in the State party. The Committee was especially concerned about the thousands of former child soldiers in Nepal who were not among the 2,973 children officially recognized as having been affected by the recent conflict. Those former child soldiers, like other children used by armed groups or the country's armed forces, were victims, and as such they should be given opportunities to seek justice and obtain compensation.

11. He wondered whether it would not be preferable to define child pornography as a crime under the Muluki Ain (General Code) rather than by means of the bill amending the Children's Act. He wished to know whether child prostitutes were still treated as offenders and detained or prosecuted under the 1970 Public Offences and Control Act, several provisions of which the Committee had urged the State party to repeal in its concluding observations on the initial report of Nepal under the Optional Protocol on the sale of children, child prostitution and child pornography (CRC/C/OPSC/NPL/CO/1). Had the State party amended its legislation to enable it to establish and exercise extraterritorial jurisdiction over all crimes covered by the Optional Protocol, as the Committee had also recommended?

12. **Ms. Ayoubi Idrissi** asked whether the Truth and Reconciliation Commission had received any complaints from children concerning crimes covered by the Optional Protocol on the sale of children, child prostitution and child pornography or the Optional Protocol on the involvement of children in armed conflict. If so, how many such complaints had been submitted and what had the outcome been? She would like to learn what the State party did to rehabilitate Nepalese children who were rescued from prostitution in Nepal, India and other countries. She also wished to know whether the Optional Protocols, like the Convention, had been translated into the local languages and widely disseminated.

13. **Ms. Aho Assouma** said that she wondered why birth registration was not compulsory, especially since efforts to overcome one of the problems faced by the State party — namely, the prevalence of child marriage — would be more effective if all children had birth certificates. She would like to know whether there were literacy and mental health programmes for demobilized children and whether children who had been left with permanent disabilities after the recent conflict were provided with orthopaedic devices. In addition, she wished to know whether any children had contracted HIV/AIDS as a result of rape and, if so, whether they had access to antiretroviral therapy. What measures had been taken to provide support for children born as a result of rape during the armed conflict?

14. **Mr. Prasad Regmi** (Nepal) said that many kinds of support, including monthly allowances, stipends and scholarships, rehabilitation, psychosocial counselling and vocational or life-skills training, were provided to children affected by the conflict. Nepal had taken at face value the findings of the United Nations Mission in Nepal and UNICEF that there had been 2,973 child members of Maoist armed groups. It was nonetheless possible that the true figure could have been higher. The Truth and Reconciliation Commission had received some 4,000 complaints in the one month since it had begun accepting them. There had not yet been enough time to compile statistics on what they concerned or who had submitted them.

15. **Mr. Gnyawali** (Nepal) said that the bill amending the Children's Act would make the recruitment of children for use by armed groups punishable by a fine of up to 1 million Nepalese rupees, a sentence of imprisonment of up to 15 years, or both. It was true that extraditing a person implicated in activities that were not a criminal offence as such under Nepalese law would be difficult.

16. Children involved in such activities as pornography were treated as victims, not as common criminals. Internet activities were regulated by the Electronic Transaction and Digital Signature Act-Ordinance.

17. **Mr. Rupakhetee** (Nepal) said that a recent survey carried out by the Ministry of Women, Children and Social Welfare in 20 districts that had been involved in the armed conflict had found that nearly 17,000 children had been affected in some way. The Government was currently running a project under the Nepal Peace Trust Fund to support children affected by the armed conflict, including displaced children, children whose parent or guardian had been killed, disappeared or disabled, children dependent on a parent who had been affected by the armed conflict and child victims of sexual exploitation. The project provided psychosocial counselling and various training packages. Other components included advocacy, support for education and for health, and the "Schools as Zones of Peace" initiative. He was not in favour of using the term "sex slaves", but there had been reports of incidents of sexual abuse and exploitation in the course of the conflict.

Combined third to fifth periodic reports of Nepal (continued) (CRC/C/NPL/3-5; CRC/C/NPL/Q/3-5 and Add.1)

18. **Mr. Rupakhetee** (Nepal) said that the Convention and both Optional Protocols had been translated into local languages and distributed to the police, the judiciary and the public prosecutors of all districts. Those texts were also circulated by NGOs at the local level. As part of the campaign to combat corporal punishment, all orientation and training programmes included a session on the Convention and on positive discipline and positive parenting. Efforts were made to send as many demobilized children to school as possible. Those who opted not to enter the formal education system went into vocational training courses and learned a trade.

19. As to the question about whether the subsidy for persons with disabilities was sufficient to cover rising prices, the amount of that subsidy could be reviewed and perhaps raised if the corresponding budget increase could be secured. Medical facilities and antiretroviral treatment were available and accessible to all persons living with HIV, including children affected by the armed conflict.

20. **Mr. Cardona Llorens** said that the State party had sent out contradictory messages about its intentions with regard to ratification of the Rome Statute of the International Criminal Court. He would like to know whether the State party was in fact going to ratify the Rome Statute. Whether it ratified it or not, did the State party intend to make the recruitment of children a war crime under Nepalese law?

21. **Ms. Aho Assouma** said that she was not satisfied with the delegation's replies regarding birth registration. It had stated that the registration rate was up to 52 per cent, but her understanding was that there were disparities in registration rates that had to do with the sex of the child, the place of residence and socioeconomic status. It appeared that people who were better off financially were the ones whose children were registered, and she wondered why that was so: was there a cost attached to registration? The delegation had still not said why the State party did not simply make birth registration compulsory; failure to register births impeded the enforcement of the country's laws prohibiting child marriage.

22. **Mr. Prasad Regmi** (Nepal) said that, as reported to the Human Rights Council during its consideration of the human rights situation in Nepal in the course of the universal periodic review, his Government had set up a working group to consider whether to ratify the Rome Statute. A new law on birth registration was being drafted. He was personally in favour of making registration compulsory and hoped that a provision to that effect would be included in the bill.

23. **Ms. Sandberg** (Country Task Force) said that the basic challenges faced by the State party, such as poverty and the impact of the earthquake (which had, after all, taken place only just over a year earlier), needed to be taken into account. The delegation had demonstrated that there was a desire to make progress in upholding children's rights. It had nevertheless frequently given the impression that all was well, and it had been difficult for the Committee to grasp what problems the State party believed it needed to make a determined effort to address. She did not believe, for example, that the State party had yet understood the full implications of the increase in the number of private schools. The new Constitution represented a huge step forward; it now had to be implemented, and the amendment of the 1992 Children's Act was an important step in that direction. In addition, the Civil and Criminal Codes needed to make explicit reference to the best interests of the child; the delegation had not made a clear statement of intent in that regard.

24. **Mr. Prasad Regmi** (Nepal) said that Nepal was undergoing major changes following the adoption of the new Constitution. Previously, decisions had been taken centrally, but with the shift from a unitary to a federal State, the resolution of issues such as birth registration, health and the regulation of private schools could be devolved to the local level. Even so, the Government's efforts alone might well prove to be insufficient, and he wished to call on the international community to provide Nepal with further support and cooperation in accordance with the principle of common but differentiated responsibility.

The discussion covered in the summary record ended at 4.30 p.m.